

ESTTA Tracking number: **ESTTA692361**Filing date: **08/28/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91221951
Party	Defendant Hair Are Us, Inc.
Correspondence Address	HARRY TAPIAS LOIGICA PA 2 S BISCAYNE BLVD , STE 3760 MIAMI, FL 33131-1815 UNITED STATES harry.tapias@loigica.com, camilo.espinosa@loigica.com, tiffany.disney@loigica.com
Submission	Answer and Counterclaim
Filer's Name	Harry Tapias
Filer's e-mail	harry.tapias@loigica.com
Signature	/Harry Tapias/
Date	08/28/2015
Attachments	Amended answer and counterclaim.pdf(2608366 bytes )

## Registration Subject to the filing

Registration No	3859458	Registration date	10/12/2010
Registrant	GEOFFREY, LLC One Geoffrey Way Wayne, NJ 07470 UNITED STATES		

## Goods/Services Subject to the filing

Class 035. First Use: 2007/09/30 First Use In Commerce: 2007/09/30

All goods and services in the class are requested, namely: Retail store and on-line retail store services all featuring toys, games, playthings, natural wooden toys, natural plush animals, organic cotton dolls, dolls, doll houses, doll accessories, doll house furniture, furniture, clothing, baby clothing, children's clothing, maternity clothing, outdoor toys, play sets, sandboxes, play swimming pools, swimming aids, pool rings, life jackets and arm floats for recreational use, outdoor play sets, sporting goods and equipment, roller skates, in-line skates, toy cars, toys trucks, toy airplanes, toy vehicle play sets, toy race tracks, toy action figures and play sets, toy activity tables for children with storage, toy boxes, board games, hand-held electronic games, puzzles, dolls, doll accessories, plush toys, educational toys, microscopes, telescopes, binoculars, science experiment kits, nature kits, magic sets, remote control vehicles and toys; retail store and on-line retail store services all featuring dress-up sets, Halloween costumes, books, cassettes, videos, CDs, DVDs, portable digital media players, musical instruments, toy musical instruments and microphones, computers, toy computers, educational computers, computer and video games, computer and video game consoles and accessories, home and car electronics, baby safety items, baby monitors, humidifiers, vaporizers, baby food and formula, food, beverages, and utensils; retail store and on-line retail store services all featuring diapers, medicine, skin and hair care products, bedding and room decor, baby furniture, children's furniture, adult furniture, rocking chairs, lamps, light fixtures, safety gates, safety night lights, rear view mirror attachments, car seats, high chairs, step stools, booster seats, carriages and strollers. retail store and on-line retail store services all featuring bicycles, tricycles, toy motorized vehicles, ride-on toys, playpens, portable playpens, baby travel systems, play yards and beds for children, bed linen, comforters, pillow cases, rugs, wall paper, swings and bouncers, diaper bags and carriers, bath products and bibs; retail store and on-line retail store services all featuring, pens, paper,

crayons, stationery, school supplies, artist supplies, stickers, coloring books, puzzle books, knapsacks, school bags, sports bags, gift cards and gift wrap; gift registry services

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE  
THE TRADEMARK TRIAL AND APPEAL BOARD**

Geoffrey, LLC  
a Delaware limited liability  
company,

Opposer,

**OPPOSITION NO. 91221951**

**Serial No. 86222809**

v.

Hair Are Us, Inc.,  
a Georgia corporation  
Applicant.

**APPLICANT'S AMENDED ANSWER AND COUNTERCLAIM**

Applicant, Hair Are Us, Inc., for its amended answer to the Notice of Opposition filed by Geoffrey, LLC against application for registration of Hair Are Us, Inc.'s trademark HAIR ARE US, Serial No. 86222809 filed March 17<sup>th</sup>, 2014, and published in the Official Gazette of Apr 14, 2015, pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

2. Answering paragraph 2 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and

accordingly denies the allegations.

3. Answering paragraph 3 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

4. Answering paragraph 4 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

5. Answering paragraph 5 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

6. Answering paragraph 6 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

7. Answering paragraph 7 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

8. Answering paragraph 8 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

9. Answering paragraph 9 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and

accordingly denies the allegations..

10. Answering paragraph 10 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

11. Answering paragraph 11 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

12. Applicant admits the information contained in paragraph 12 of the Notice of Opposition.

13. Applicant admits the information contained in paragraph 13 of the Notice of Opposition.

14. Answering paragraph 14 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

15. Applicant denies the allegation contained in paragraph 15 of the Notice of Opposition.

16. Applicant denies the allegation contained in paragraph 16 of the Notice of Opposition.

17. Applicant denies the allegation contained in paragraph 17 of the Notice of Opposition.

18. Applicant denies the allegation contained in paragraph 18 of the Notice of Opposition.

19. Answering paragraph 19 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

20. Applicant denies the allegation contained in paragraph 20 of the Notice of Opposition.

21. Applicant denies the allegation contained in paragraph 21 of the Notice of Opposition.

22. Answering paragraph 22 of the Notice of Opposition, Applicant denies “granting registration to Applicant would diminish and dilute the distinctive quality of Opposer’s rights in its famous R US Family of Marks...” Applicant further denies that “...could also in the event of any mishaps involving, or poor quality of, the goods offered by Applicant, tarnish such distinctiveness”; as to the remaining allegations contained in the paragraph, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

23. Answering paragraph 23 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

24. Answering paragraph 24 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and

accordingly denies the allegations.

25. Answering paragraph 25 of the Notice of Opposition, Applicant denies that there is “a high degree of similarity between Applicant’s Mark and the TOYS R US Marks”; as to the remaining allegations contained in the paragraph, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations.

26. Applicant denies the allegation contained in paragraph 26 of the Notice of Opposition.

### **AFFIRMATIVE DEFENSES**

27. Applicant further affirmatively alleges that there is no likelihood of confusion mistake, or deception, because, *inter alia*, Applicant’s mark and the pleaded marks of Opposer are not confusingly similar. Although they share the usage of the phrase “are us” the marks are not similar in appearance. To an ordinary consumer, the likelihood of confusion would not be present because of how dissimilar the marks are in appearance. TOYS R US marks have a distinctive appearance in regards to the bubble letter font, and the distinguishing character mark of the backwards “R” with a star symbol in the center of the “R”. Neither the distinctive font nor signature “star” symbol imbedded in the reversed “R” are being used by Applicant; in fact, Applicant has distinguished itself further from Opposer’s marks by spelling out “are” completely, unlike using the shortened version of Opposer, and Applicant is using a completely different font and color scheme. These differences will prevent confusion among consumers as to the origin of the goods. Therefore, there is no likelihood of confusion because the marks differ so substantially in appearance, connotation, and commercial impression.

28. Applicant further affirmatively alleges there is no likelihood of confusion, mistake, or deception, because *inter alia*, the goods and services offered by Applicant are distinct from the goods and services offered by Registrant. Opposer offers limited goods and services pertaining to *toys, games, playthings, natural wooden toys*, etc. Applicant offers hair extensions to be used by adults. The goods are so unrelated as to be unlikely to suggest to consumers that they emanate from a common source. Opposer is selling toys for children; Applicant is selling hair extensions for adults. The ultimate consumer and end use of the product is so distinct that Opposer's products and Applicant's products cannot rightly be compared to each other. Opposer may narrowly circumscribe to the goods or services indicated, any other use would not lead to a likelihood of confusion. Therefore, because of the distinct product offering, there is no likelihood of confusion.

29. Applicant further affirmatively alleges there is no likelihood of confusion, mistake, or deception, because *inter alia*, the goods and services offered travel through different channels. Applicant and Registrant are directing their products at different categories of consumers. Registrant's end user of products is children and infants. Applicant's products are marketed directly towards adults, more specifically female adults who are seeking to beautify and augment their hair. Applicant sells their products in stores in Atlanta, Georgia, and Miami, Florida, offering the sale of hair extensions, hair braiding services, and other beauty services, in addition to online shopping services, all targeted towards young female adults. (See Hairareus.com.) Geoffrey LLC has no such stores offering these services. Therefore, the consumer is highly unlikely to be confused by the co-existence of the marks.

30. Applicant further affirmatively alleges there is no likelihood of confusion, mistake, or deception, because *inter alia*, the goods and services offered are not within the



natural expansion realm of Geoffrey, LLC. “[A] trademark owner cannot by the normal expansion of its business extend the use or registration of its mark to *distinctly different* goods or services not comprehended by its previous use . *Planetary Motion, Inc. v. Techsplosion, Inc.*, 261 F.3d 1188, 1201 (11th Cir. 2001) (citing *Carnival Brand Seafood Co. v. Carnival Brands, Inc.*, 187 F.3d 1307, 1310 (11th Cir. 1999). The “source of sponsorship test,” is used to determine whether the product is in the natural expansion. This test utilizes whether the public would perceive the products as coming from the same source. Because Applicant has a different target market, offers different services, and has a visually distinct mark from the Opposer, surely the public would not perceive the products deriving from the same owner.

31. Therefore, Applicant further affirmatively alleges that there is no likelihood of confusion because the goods are unrelated, sold through different marketing channels, create different commercial impressions, and are not within the Opposer’s natural realm of expansion.

32. Applicant further affirmatively alleges that there is no likelihood of dilution by blurring because Opposer’s and Applicant’s marks are not sufficiently similar; there are, upon information and belief, numerous commercial uses of third party marks with the informative “are us” phrase; neither Applicant nor Applicant’s predecessors in interest intended any association with Opposer’s marks or any of them; and upon information and belief, an ordinary prospective purchaser’s of Applicant’s products do not associate Applicant’s marks with Opposer’s marks because of the distinct product offering and target market. “Similarly, the Trademark Trial & Appeal Board held that the registration of the applicant's ROLL-X mark for medical and dental X-ray tables was unlikely to cause dilution by blurring of the famous ROLEX mark for timepieces inasmuch as the two marks' differences in appearance, connotation, and commercial impression greatly outweighed the similarity in their pronunciation.” 1 Pat. L. Fundamentals §

5:99 (2d ed.). Geoffrey, LLC has a very specific target market of young children and their parents, outside of those class of people, the “are us” is used on numerous occasions in the commercial context and TOYS R US Marks should not enjoy exclusivity to a mark - which prevents other from using a phrase to symbolize to the world what those users and companies sale - outside of the very narrow target market Geoffrey, LLC serves. Applicant’s mark and Opposer’s marks are distinct in appearance, connotation, and commercial impression for reasons discussed herein, and therefore, should greatly outweigh the mere similarity in pronunciation.

### **COUNTERCLAIM**

33. Pursuant to 37 CFR Section 2.106(b)(2) and Section 313 of the Trademark Trial and Appeal Board Manual of Procedure, the Applicant, Hair Are Us, Inc., by and through its undersigned counsel, files this counterclaim to cancel the mark of Opposer, Geoffrey, LLC, and avers as follows:

34. Applicant, Hair Are Us, Inc., is the owner of record of U.S. Ser. No. 86222809 for the mark HAIR ARE US used in connection with a commercial store, namely hair extensions; add-in and add-on hair accessories constructed primarily of synthetic and/or human hair in International Class 026, wherein said application having been filed in the U.S. Patent and Trademark Office on March 17, 2014. See **Exhibit 1**

35. Applicant’s said application was published for opposition on April 14, 2015 and the Opposer filed an opposition. The Opposer is the owner of record of U.S. Reg. No. 3859458 for the mark TOYS R US used in connection with International Class 35, said application having been registered in the U.S. Patent and Trademark Office on October 12<sup>th</sup>, 2010. See **Exhibit 2**

36. The phrase “R US” is neither exclusively owned by Opposer nor distinctive to

Opposer. Rather, the term “R Us” is simply a phonetic version of a generic term to denote a contextual relation with a subject matter immediately preceding it.

37. Therefore, Opposer’s alleged “R US” word portion of the trademark is a generic reference to the limited services offered under the mark, i.e., toys, games, playthings, natural wooden toys, natural plush animals, organic cotton dolls, dolls, doll houses, etc. See Again **Exhibit 2**.

38. Collins English Dictionary, 5<sup>th</sup> Edition, defines “ARE” as an intransitive verb meaning “BE.” Additionally, the Dictionary defines “US” as a pronoun of “WE.” See **Exhibit 3**. As such, collectively, the two words may mean, “being us.”

39. Within the commercial context, the phrase “R Us” is simply saying “you can buy a certain product here in our store, as this is what we specialize in selling.”

40. Beyond the commercial context, it is not uncommon to see the “R Us” phrase being utilized to symbolize something that a group or individual identifies so closely with to describe himself or herself.

41. Numerous commercial businesses utilize versions of “R Us” in connection with their goods and services for their consumers. As of August 2015, a Google search for “R Us” (parenthesis included in search term) returned over 5,910,000 hits with pages after pages of search results listing businesses and other groups using the “R Us” phrase.

42. Windows R Us is an operating business in New York specializing in windows and window installations as reflected in **Exhibit 4**.

43. Windows R Us is an operating business in Pennsylvania specializing in windows and window installations as reflected in **Exhibit 5**.

44. Camps R Us is an operating business based out of New York specializing in

summer camp services for children as reflected in **Exhibit 6**.

45. Goats R Us is an operating business based out of California specializing in livestock services as reflected in **Exhibit 7**.

46. Carz R Us is a operating business based out of Illinois specializing in retail car sale services as reflected in **Exhibit 8**.

47. Barks R Us is an operating business out of Washington specializing in animal rescuing services as reflected in **Exhibit 9**.

48. Roofs R Us is a roofing company specializing in providing roofing services as reflected in **Exhibit 10**.

49. Shirts R Us is a shirt company specializing in customized shirt printing services as reflected in **Exhibit 11**.

50. Degrees R Us is a paperback book available for sale all across the United States via Amazon.com as reflected in **Exhibit 12**.

51. Numerous commercial businesses utilize versions of “R Us” in connection with their goods and services for their consumers. They are business entities registered with Secretary of State Departments across the United States, including the West Coast of the United States.

52. Aquariums R Us is company registered in the State of California as reflected in **Exhibit 13**.

53. Autos R Us is incorporated in the State of California as reflected in **Exhibit 14**.

54. Bake R Us is incorporated in the State of California as reflected in **Exhibit 15**.

55. Bargains R Us is incorporated in the State of California as reflected in **Exhibit 16**.

56. Bits R Us is incorporated in the State of California as reflected in **Exhibit 17**.

57. Boxes R Us is incorporated in the State of California as reflected in **Exhibit 18**.

58. Buses R Us is incorporated in the State of California as reflected in **Exhibit 19**.
59. Choices R Us is incorporated in the State of California as reflected in **Exhibit 20**.
60. Ears R Us is incorporated in the State of California as reflected in **Exhibit 21**.
61. Foods R Us is incorporated in the State of California as reflected in **Exhibit 22**.
62. Gold R Us is incorporated in the State of California as reflected in **Exhibit 23**.
63. Fields R Us is incorporated in the State of California as reflected in **Exhibit 24**.
64. Films R Us is incorporated in the State of California as reflected in **Exhibit 25**.
65. Freights R Us is incorporated in the State of California as reflected in **Exhibit 26**.
66. Greens R Us is incorporated in the State of California as reflected in **Exhibit 27**.
67. Homes R Us Reality is incorporated in the State of California as reflected in **Exhibit 28**.
68. Hyrdo R Us is incorporated in the State of California as reflected in **Exhibit 29**.
69. Interpretes R Us is incorporated in the State of California as reflected in **Exhibit**
- 30**.
70. Investments R Us is incorporated in the State of California as reflected in **Exhibit**
- 31**.
71. Numerous commercial businesses utilize versions of “R Us” in connection with their goods and services for their consumers. They are business entities registered with Secretary of State Departments across the United States, including the East Coast of the United States.
72. Bubbles R Us is incorporated in the State of New York as reflected in **Exhibit 32**.
73. Bugs R Us is incorporated in the State of New York as reflected in **Exhibit 33**.
74. Brokers R Us is incorporated in the State of New York as reflected in **Exhibit 34**.
75. Construction R Us is incorporated in the State of New York as reflected in

**Exhibit 35.**

76. Cakes R Us is a company registered in the State of New York as reflected in

**Exhibit 36.**

77. Lens R Us is a company registered in the State of New York as reflected in

**Exhibit 37.**

78. Print R Us is incorporated in the State of New York as reflected in **Exhibit 38.**

79. Studio R Us is a company registered in the State of New York as reflected in

**Exhibit 39.**

80. Pools R Us is incorporated in the State of New York as reflected in **Exhibit 40.**

81. Phones R Us is a company registered in the State of New York as reflected in

**Exhibit 41.**

82. Windows R Us is a company registered in the State of New York as reflected in

**Exhibit 42.**

83. Wheels R Us is incorporated in the State of New York as reflected in **Exhibit 43.**

84. Numerous commercial businesses utilize versions of “R Us” in connection with their goods and services for their consumers. They are business entities registered with Secretary of State Departments across the United States, including the South East Coast of the United States.

85. Numerous marks have been registered and filed with the USPTO containing the words “R Us”, indicating that the words “R Us” are not solely distinctive to Opposer or its alleged family of “R US” marks.

86. BENRUS is a federally registered mark for blank journals, envelopes for stationary use and paper stationary as reflected in **Exhibit 44.**

87. FISHINGURUS is a federally registered mark for retail stores and online store services featuring fishing gear as reflected in **Exhibit 45**.

88. FASTRUSS is a federally registered mark for custom design and engineering of prefabricated light gauge steel trusses and wall panels as reflected in **Exhibit 46**.

89. HERB LADY HERBS 'R US is a live pending application on the principal register for dried herbs, herb tea, and processed tea as reflected in **Exhibit 47**.

90. Therefore, because of the widespread use of the phrase "R Us" as alleged, *inter alia*, Opposer's mark should be canceled.

Therefore, the Applicant prays that the Notice of Opposition shall be dismissed with prejudice and Applicant/Cancellation Petitioner also respectfully requests that U.S. Reg. No 3859458 be cancelled.

Respectfully submitted,  
Hair Are Us, Inc.

Dated: 08/28/2015

By: /Harry Tapias/  
Harry Tapias  
Loigica & Attorneys

2 S Biscayne Blvd Ste 3760  
Miami, Florida 33131

**CERTIFICATE OF SERVICE**

I hereby certify that this correspondence has been electronically delivered to the Trademark Trial and Appeal Board via their Electronic Filing System on this 28<sup>th</sup> day of August, 2015 addressed to the following:

Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, VA 22202-3514  
United States

**/Harry Tapias/**  
Harry Tapias



**CERTIFICATE OF SERVICE**

I hereby certify that I have on this 28<sup>th</sup> day of August, 2015, emailed the foregoing AMENDED ANSWER AND COUNTER-CLAIM to the following:

Matthew A. Homyk  
Blank Rome LLP  
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**/Harry Tapias/**  
Harry Tapias

# **EXHIBIT 1**

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**TSDR****ASSIGN Status****TTAB Status***( Use the "Back" button of the**Internet Browser to return to TESS)*

<b>Word Mark</b>	<b>HAIR ARE US</b>
<b>Goods and Services</b>	IC 026. US 037 039 040 042 050. G & S: Hair extensions; add-in and add-on hair accessories constructed primarily of synthetic and/or human hair. FIRST USE: 20110131. FIRST USE IN COMMERCE: 20110131
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	02.03.22 - Busts of women in profile; Heads of women in profile; Portraiture of women in profile; Women - head, portraiture or busts in profile 02.03.24 - Women, stylized, including women depicted in caricature form
<b>Serial Number</b>	86222809
<b>Filing Date</b>	March 17, 2014
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	April 14, 2015
<b>Owner</b>	(APPLICANT) Hair Are Us, Inc. CORPORATION GEORGIA 888 Biscayne Blvd., #4907 Miami FLORIDA 33132
<b>Attorney of Record</b>	Harry Tapias
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HAIR" APART FROM THE MARK AS SHOWN
<b>Description of Mark</b>	Color is not claimed as a feature of the mark. The mark consists of a profile of a face with flowing hair extending off the back and the words "Hair Are Us".
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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## **EXHIBIT 2**

**TSDR****ASSIGN Status****TTAB Status***( Use the "Back" button of the**Internet Browser to return to TESS)***Word Mark** TOYS R US**Goods and Services**

IC 035. US 100 101 102. G & S: Retail store and on-line retail store services all featuring toys, games, playthings, natural wooden toys, natural plush animals, organic cotton dolls, dolls, doll houses, doll accessories, doll house furniture, furniture, clothing, baby clothing, children's clothing, maternity clothing, outdoor toys, play sets, sandboxes, play swimming pools, swimming aids, pool rings, life jackets and arm floats for recreational use, outdoor play sets, sporting goods and equipment, roller skates, in-line skates, toy cars, toys trucks, toy airplanes, toy vehicle play sets, toy race tracks, toy action figures and play sets, toy activity tables for children with storage, toy boxes, board games, hand-held electronic games, puzzles, dolls, doll accessories, plush toys, educational toys, microscopes, telescopes, binoculars, science experiment kits, nature kits, magic sets, remote control vehicles and toys; retail store and on-line retail store services all featuring dress-up sets, Halloween costumes, books, cassettes, videos, CDs, DVDs, portable digital media players, musical instruments, toy musical instruments and microphones, computers, toy computers, educational computers, computer and video games, computer and video game consoles and accessories, home and car electronics, baby safety items, baby monitors, humidifiers, vaporizers, baby food and formula, food, beverages, and utensils; retail store and on-line retail store services all featuring diapers, medicine, skin and hair care products, bedding and room decor, baby furniture, children's furniture, adult furniture, rocking chairs, lamps, light fixtures, safety gates, safety night lights, rear view mirror attachments, car seats, high chairs, step stools, booster seats, carriages and strollers. retail store and on-line retail store services all featuring bicycles, tricycles, toy motorized vehicles, ride-on toys, playpens, portable playpens, baby travel systems, play yards and beds for children, bed linen, comforters, pillow cases, rugs, wall paper, swings and bouncers, diaper bags and carriers, bath products and bibs; retail store and on-line retail store services all featuring, pens, paper, crayons, stationery, school supplies, artist supplies, stickers, coloring books, puzzle books, knapsacks, school bags, sports bags, gift cards and gift wrap; gift registry services. FIRST USE: 20070930. FIRST USE IN COMMERCE: 20070930

**Mark****Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search**

01.01.03 - Star - a single star with five points

**Code**

27.03.05 - Objects forming letters or numerals

**Trademark**

LETS-1 R A single letter, multiples of a single letter or in combination with a design

**Search**

LETS-2 US Two letters or combinations of multiples of two letters

**Facility**

SHAPES-ASTRO Astronomical shapes consisting of celestial bodies, globes and

**Classification**

geographical maps

**Code**

SHAPES-COLORS-3-OR-MORE Design listing or lined for three or more colors

**Serial Number** 77881922

<b>Filing Date</b>	November 30, 2009
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	July 27, 2010
<b>Registration Number</b>	<b>3859458</b>
<b>Registration Date</b>	October 12, 2010
<b>Owner</b>	(REGISTRANT) GEOFFREY, LLC LIMITED LIABILITY COMPANY DELAWARE One Geoffrey Way Wayne NEW JERSEY 07470
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Timothy D. Pecsénye
<b>Prior Registrations</b>	2362269;2364201;2364575;AND OTHERS
<b>Description of Mark</b>	The color(s) red, orange, green, blue and white is/are claimed as a feature of the mark. The mark consists of the words "TOYSRUS" with a backwards letter "R" in blue with a white star design in the center with the letter "T" in red, the letter "O" in orange, the letter "Y" in green" the letter "S" in red, the letter "U" in green and the letter "S" in red.
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

**EXHIBIT 3**

# Collins Dictionary, 5<sup>th</sup> Edition

## Definitions of are

*are*<sup>1</sup> (ɑr ; (unstressed,) ər )

### Definitions

intransitive verb

1. (*pl. & 2d pers. sing., pres. indic., of*) [be](#)

## Definitions of us

*us* (ʌs )

### Definitions

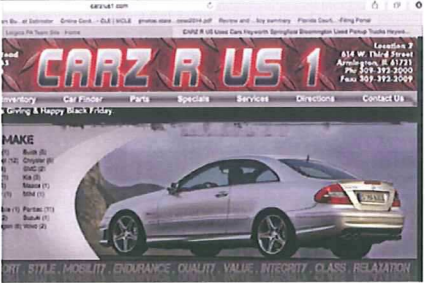

pronoun

1. (*objective form of*) [we](#) [*help us; give us the books* / (also used as a predicate complement with a linking verb, although this usage is objected to by some [*it's us*])



## **EXHIBITS 4-12**

<u>Exhibit</u>	<u>Mark</u>	<u>Product and/or Service</u>	<u>Website Source and Notes</u>	<u>Actual Use in Commerce Website Image/</u>
4	Windows R Us	Windows and Window Installations	<a href="http://www.windowrus.com">http://www.windowrus.com</a> We are a family owned and operated business. We are licensed in New York City, Nassau and Suffolk counties.	 <p>The screenshot shows the Windows 'R' Us website. At the top, there's a navigation bar with links like 'Home', 'About Us', 'Services', 'Frequently Asked', and 'Contact Us'. Below this is a large image of a window installation. To the right of the image is a sign-up form titled 'Sign Up For Free' with the subtext 'LEARN ABOUT MONEY FOR YOUR HOME IMPROVEMENT'. The form asks for 'FIRST NAME' and 'E-MAIL ADDRESS' and has a 'SIGN UP' button. Above the form, it says 'By signing up for this free demonstration book, you will also receive our newsletter with articles, tips, and discounts.' Below the form, it says 'Serving Queens, Brooklyn, Nassau, and Suffolk Counties - Call Toll Free 1-866-492-2922'.</p>
5	Windows R Us	Windows and Window Installations	<a href="http://windowruspittsburgh.com">http://windowruspittsburgh.com</a> Windows R Us is based in Pittsburgh, PA and holds dear to the true family values that make Pittsburgh so special. They have locations in Castle Shannon, PA; Canonsburg, PA; at the Southpointe Iceoplex	 <p>The screenshot shows the Windows R Us Pittsburgh website. It features a large image of a two-story house with many windows. To the right of the image is a text box that says 'Windows R Us We are not the best because we are the biggest. We're the biggest because we're the best!' and a 'Learn More' button. Above the image, there's a navigation bar with links like 'Home', 'About Us', 'Services', 'Frequently Asked', and 'Contact Us'.</p>
6	Camps R Us	Summer Camps for Children	<a href="http://www.campsrus.org">http://www.campsrus.org</a> Owned by Camps 'R' Us, New York LLC	 <p>The screenshot shows the Camps R Us website. It features a large image of a child playing in a field. To the right of the image is a text box that says 'RECESS CAMP' and 'DEC 22 23 24 29 30 JAN 2'. Below the image, there's a 'Welcome to Camps 'R' Us!' section with a description of the camp and a 'Click Here to Learn More' button. Above the image, there's a navigation bar with links like 'Home', 'About', 'Camp Info', 'Locations', and 'Programs'.</p>
7	Goats R Us	Alternative weed eradication and lawn services.	<a href="http://www.goatsrus.com">http://www.goatsrus.com</a> Goats R Us is a family owned and operated grazing company. Established in 1995, our livestock are used primarily for fuel mitigation and the eradication of	 <p>The screenshot shows the Goats R Us website. It features a large image of a goat grazing in a field. To the right of the image is a text box that says 'Goats R Us' and 'What We Do'. Below the image, there's a 'What We Do' section with a description of the company and a 'Contact Us' button. Above the image, there's a navigation bar with links like 'Home', 'About Us', 'Services', 'Frequently Asked', and 'Contact Us'.</p>

8	<b>Carz R Us</b>	Retail Car Sales	<a href="http://www.carzrus1.com">http://www.carzrus1.com</a> Search Used Cars In Heyworth At Carz R Us To Find The Best Cars Heyworth, Springfield, Bloomington, Armington, IL	
9	<b>Barks R Us</b>	Animal Rescue Services	<a href="http://awos.petfinder.com/shelters/WA193.html">http://awos.petfinder.com/shelters/WA193.html</a> Pet shelter and adoption service.	
10	<b>Roofs R Us</b>	Roofing Services	<a href="http://roofsrusminnesota.com">http://roofsrusminnesota.com</a> At Roofs R Us, we specialize in your roofing needs. New Brighton, MN	
11	<b>Shirts R Us</b>	Customized Shirt Printing	<a href="http://www.shirtsrus.biz">http://www.shirtsrus.biz</a> Ft. Lauderdale Florida	
12	<b>Degrees R Us</b>	Paperback Comedy Book sold in Amazon.com	<a href="http://www.amazon.com/Degrees-R-Us-Anonymous/dp/0954758692">http://www.amazon.com/Degrees-R-Us-Anonymous/dp/0954758692</a>	

## **EXHIBITS 13-31**

<u>Exhibit</u>	<u>Mark</u>	<u>State Department</u>	<u>Notes or Identification Number</u>	<u>Active/Inactive</u>
13	AQUARIUMS R US	California Secretary of State	C3076306	Active
14	AUTOS R US INC	California Secretary of State	C3200122	Active
15	BAKE R US INC	California Secretary of State	C1787569	Active
16	BARGAINS R US INC	California Secretary of State	C3631814	Active
17	BITS R US INC	California Secretary of State	C2136284	Active
18	BOXES R US INC	California Secretary of State	C2214950	Active
19	BUSES R US INC	California Secretary of State	C3291318	Active
20	CHOICES R US	California Secretary of State	C2378398	Active
21	EARS R US INC	California Secretary of State	C3599172	Active
22	FOODS R US INC	California Secretary of State	C2045116	Active
23	GOLD R US INC	California Secretary of State	C3559897	Active
24	FIELDS R US INC	California Secretary of State	C3540435	Active
25	FILMS R US INC	California Secretary of	C1373724	Active

		State		
26	<b>FREIGHTS R US</b>	California Secretary of State	C2315492	Active
27	<b>GREENS R US INC</b>	California Secretary of State	C3570603	Active
28	<b>HOMES R US REALTY INC</b>	California Secretary of State	C2637912	Active
29	<b>HYDRO R US INC</b>	California Secretary of State	C3447667	Active
30	<b>INTERPRETES R US INC</b>	California Secretary of State	C2358073	Active
31	<b>INVESTMENTS R US INC</b>	California Secretary of State	C2536142	Active

## **EXHIBITS 32-43**

<u>Exhibit</u>	<u>Mark</u>	<u>State Department</u>	<u>Notes or Identification Number</u>	<u>Active/Inactive</u>
32	BUBBLES R US INC	NYS Department of State Division of Corporations	2611412	Active
33	BUGS R US	NYS Department of State Division of Corporations	3862502	Active
34	BROKERS R US	NYS Department of State Division of Corporations	4268957	Active
35	CONSTRUCTION R US	NYS Department of State Division of Corporations	TBD	Inactive
36	CAKES R US	NYS Department of State Division of Corporations	3965410	Active
37	LENS R US	NYS Department of State Division of Corporations	3872785	Active
38	PRINT R US INC	NYS Department of State Division of Corporations	3562310	Active
39	STUDIO R US	NYS Department of State Division of Corporations	3639671	Active
40	POOLS R US INC	NYS Department of State Division of Corporations	2109972	Active
41	PHONES R US	NYS Department of State Division of Corporations	4534006	Active



<b>42</b>	<b>WINDOWS R US</b>	NYS Department of State Division of Corporations	796722	Active
<b>43</b>	<b>WHEELS R US INC</b>	NYS Department of State Division of Corporations	1967747	Active

## **EXHIBITS 44-47**

**Similar Marks Recognized By The USPTO & Current Applications**

	<b><u>Mark</u></b>	<b><u>Status, Reg. or Ser. No</u></b>	<b><u>Abbreviated Goods Services</u></b>	<b><u>Class</u></b>
<b>44</b>	<b>BENRUS</b>	Registered – Reg. No. 3882293	Blank journals; Envelopes for stationery use; Paper stationery;	014
<b>45</b>	<b>FISHINGURUS</b>	Registered – Reg. No. 4012425	Retail store and on-line retail store services featuring fishing gear...	035
<b>46</b>	<b>FASTRUSS</b>	Registered – Reg. No. 3936539	Custom design and engineering of prefabricated light gauge steel trusses and wall panels	042
<b>47</b>	<b>HERB LADY HERBS 'R US</b>	Serial No. 86605955	Dried Herbs, Herb Tea, Processed Herbs	030